

Message Text

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TO AMEMBASSY SAN JOSE NIACT IMMEDIATE

C O N F I D E N T I A L STATE 174637

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EXDIS

E.O. 11652: GDS

TAGS: PINT, EFIN, PGOV, CS

SUBJECT: VESCO CASE - REQUEST FOR DOCUMENTS

EYES ONLY FOR AMBASSADOR VAKY

REF: A. SAN JOSE 3092

B. STATE 172550

1. THE PURPOSE OF THIS CABLE IS TO BRING YOU UP TO DATE
ON OUR THINKING CONCERNING ABOVE-MENTIONED SUBJECT, AND
TO INDICATE OUR PLANNED ACTIONS DURING NEXT FEW DAYS.

2. A DEPARTMENT LAWYER WILL MEET WITH REPRESENTATIVE OF
US ATTORNEY'S OFFICE IN NEW YORK ON SATURDAY, WITH COPIES
OF DOCUMENTS IN HAND. THEY WILL BE SHOWN TO US ATTORNEY'S
OFFICE BUT NOT GIVEN TO THEM; OUR OBJECTIVE WILL BE TO
SEEK DECISION BY US ATTORNEY'S OFFICE THAT THESE DOCUMENTS
ARE NOT SUFFICIENTLY RELEVANT TO MITCHELL CASE AS TO
JUSTIFY THEIR DISCLOSURE, AND TO INDICATE THE SERIOUS
HARM SUCH DISCLOSURE WOULD DO TO OUR RELATIONS WITH
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COSTA RICA AND TO CREDIBILITY OF ALL US OFFICIALS ABROAD
IF IT APPEARS THEIR CONVERSATIONS WITH HEADS OF FOREIGN
STATES CANNOT BE HELD PRIVATE. IF THE US ATTORNEY'S
OFFICE AGREES THAT USE OF DOCUMENTS IS NOT ESSENTIAL,

MATTER WILL BE DROPPED. IF NOT, WE WILL DISCUSS FURTHER

POSSIBILITY OF LIMITING DOCUMENTS INTRODUCED TO THE TWO LETTERS (ON GROUNDS MEMCONS AND CABLES AS HEARSAY ARE UNADMISSIBLE AS WELL AS BEING OF LIMITED RELEVANCE). WE WILL ALSO EXPLORE POSSIBLE PROCEDURE BY WHICH ANY DOCUMENTS USED WOULD BE SHOWN TO JUDGE AND COUNSEL ON A

"SEALED" BASIS, E.G., THEY WOULD NOT BE PRESENTED FORMALLY AS EVIDENCE OR OTHERWISE DISCLOSED.

3. UNLESS US ATTORNEY'S OFFICE AGREES THAT NONE OF THE DOCUMENTS ARE NEEDED, ACTING LEGAL ADVISER WILL MEET WITH US ATTORNEY PAUL CURRAN ON TUESDAY, SEPTEMBER 4, PRESENTING ALL ARGUMENTS AGAINST DISCLOSURE TO HIM DIRECTLY AND MAKING FURTHER EFFORT TO SEEK DECISION NOT TO USE DOCUMENTS ENTIRELY OR, AS FALLBACK, TO LIMIT DISCLOSURE TO THE TWO LETTERS. IF THIS UNSUCCESSFUL, WE COULD CONSIDER POSSIBILITY AS LAST RESORT OF DIRECT APPEAL TO ATTORNEY GENERAL RICHARDSON OR SPECIAL PROSECUTOR COX. (MITCHELL CASE COMES WITHIN SCOPE OF COX' RESPONSIBILITIES EVEN THOUGH US ATTORNEY IS AT PRESENT HANDLING ALL ASPECTS OF PROSECUTION.)

4. IF ALL OF THE ABOVE EFFORTS FAIL, WE HAVE CONCLUDED, REGRETFULLY AND FULLY MINDFUL AMBASSADOR'S COMMENTS REF A, THAT THE DEPARTMENT WOULD HAVE NO REAL ALTERNATIVE TO SURRENDERING DOCUMENTS. WERE WE TO REFUSE THE RESULT WOULD ALMOST CERTAINLY BE A SUBPOENA TO THE DEPARTMENT FOLLOWED BY COURT ACTION. THE FINAL OUTCOME IS UNPREDICTABLE, BUT THE ACTION ITSELF WOULD PRODUCE ADVERSE PUBLICITY FOR US-COSTA RICAN RELATIONS APPROACHING OR EXCEEDING THAT GENERATED BY DISCLOSURE, AS WELL AS GIVING DEPARTMENT APPEARANCE OF CONCEALING MATERIAL EVIDENCE IN MITCHELL, STANS, VESCO PROSECUTION. YOU SHOULD KNOW THAT WHITE HOUSE HAS AGREED TO AUTHENTICATE COPY OF FIGUERES' LETTER TO PRESIDENT NIXON FOR POSSIBLE CONFIDENTIAL

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INTRODUCTION INTO EVIDENCE.

5. IF INTRODUCTION OF DOCUMENTS CAN BE LIMITED TO THE TWO LETTERS WE WOULD OF COURSE WANT YOU TO SEEK FIGUERES' CONSENT TO THEIR DISCLOSURE, ALTHOUGH WE WOULD PROBABLY NOT REPEAT NOT BE IN POSITION TO COMPLY IF HE OBJECTS. GIVEN FACT THAT TRIAL IS SET FOR SEPTEMBER 11, WE HOPE AND EXPECT ISSUE WILL BE RESOLVED BY SEPTEMBER 6 OR 7.

6. WE WILL KEEP YOU FULLY ADVISED OF ALL DEVELOPMENTS. ROGERS

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<< END OF DOCUMENT >>

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